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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,314	12/31/2001	David E. Pitcher	ROSE-10	4519

7590

02/27/2003

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EXAMINER

KIM, SANG K

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/037,314

Applicant(s)

DAVID E. PITCHER

Examiner

SANG KIM

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

***Priority***

It is noted that this application appears to claim subject matter disclosed in prior copending Application No. 10036756, filed 12/31/01. Applicant is advised to update the application number in the specification of this application.

***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: length "L".

The drawings are objected to because reference numbers are not legible throughout the drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

The specification is objected to because the word, "torroidal" should be "toroidal" throughout the specification and the claims. On page 23, line 12, insert space in between "lips152". Corrections are required. See MPEP § 608.01(b).

***Claim Objections***

Claims 1, 2, and 7 are objected to because of the following informalities:

Claim 1, line 11, "a cable" should be "said cable"; also, make changes in claim 7.

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Claim 1, line 12, "wrapped about said hub" should be "wrapped about the outer surface of said hub".

Claim 2, line 1, "claim1" should be "claim 1".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Gomberg, U.S. Patent No. 2533731.

Referring to claims 1-6, Gomberg teaches a pair of annular hub 6, 7; a rigid flange extending radially outwardly on each said end of said hub 6, 7, each of said flanges having a peripheral outer lip 4, 5, each of said peripheral outer lips on each of said flanges being spaced apart from one another a distance less than twice said certain diameter of said cable as shown in Figs. 1-6, and described in column 3, lines 2-17.

The recitation in the claim of a cable shortener apparatus for permitting the length adjustment of a cable supporting a sign carrier from an overhead support, relates only to a possible or intended use of the device being claimed, but does not further structurally limit the device.

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With respect to claims 7-8, the method described in these claims would inherently result from the use of invention of Gomberg as advanced above.

### ***Double Patenting***

Claims 1-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of copending Application No. 10036756. Although the conflicting claims are not identical, they are not patentably distinct from each other because it has all the structural elements as claimed in both applications except for a minor phrasing of words.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references of record show other exemplary of hanging cable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Kim whose telephone number is (703) 305-3712. The examiner can normally be reached Monday through Friday from 8:00 A.M. to 5:30 P.M. alternating Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (703) 308-2688. The fax phone numbers

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are (703) 308-0552 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

SK

2/1/03

*Kathy Matecki*

KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
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